

### **REMARKS**

Claims 1–24 are pending in the instant application. Claims 4 and 11 have been cancelled. Claim 1 has been amended to include the subject matter previously recited in claim 4. Claims 12–14 have been amended to depend from claim 7. Claims 5–10 and 12–15 have been amended for clarity. New claims 18–26 have been added. Support for all amendments and new claims can be found, for example, at paragraphs 28–40, and throughout the specification. No new matter has been introduced. The amendments are made solely to expedite prosecution of the application, and Applicants reserve the right to prosecute claims of similar or differing scope in subsequent applications.

Applicants respectfully request reconsideration in view of the following remarks.

#### **Rejection of independent claim 1**

Independent claim 1 is rejected under 35 U.S.C. § 102(e) as being anticipated by Herley (U.S. Patent Application Publication No. 20030231868). Applicants respectfully traverse this rejection to the extent it is maintained over the claim as amended.

In accordance with MPEP 2131, “a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co, of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Applicants submit that the cited reference does not disclose all of the elements of claim 1. Independent claim 1 is directed to a method for identifying segments of a broadcast program signal comprising, inter alia, identifying repeating segments of said broadcast program signal and classifying said identified repeating segments based on their duration. Such classifications may be useful, for example, for differentiating between different types of segments that have been identified as repeating.

Herley discloses determining whether the beats per minute at a particular location within an audio media stream remain approximately the same for at least 30 seconds, in order to *provide a probability of object existence* at that particular location (paragraph 102), which *precedes* the step of

determining whether two portions of the media stream are approximately the same (paragraph 98). Herley does not disclose classifying a portion of the media stream, *already identified* as approximately the same as another portion of the media stream, based on its duration. As such, Herley does not disclose identifying repeating segments and classifying said identified repeating segments based on their duration, as recited in claim 1, and therefore fails to anticipate claim 1. Reconsideration and withdrawal of this rejection are respectfully requested.

Rejection of independent claims 7 and 15

Independent claim 7 is rejected under 35 U.S.C. § 102(e) as being anticipated by Herley. Applicants respectfully traverse this rejection to the extent it is maintained over the claim as amended.

Applicants submit that the cited reference does not disclose all of the elements of claim 7. Independent claim 7 is directed to a method for identifying recordings in broadcast programming containing other content comprising, inter alia, searching the broadcast programming for matching program segments that substantially duplicate one another and storing bookmarking information specifying the locations of matching program segments, where the bookmarking information is employed to enable a user to select and play back desired segments of the matching program segments.

Herley discloses storing in a database locations of possible objects within a media stream (paragraph 83). Herley does not disclose *employing* stored information specifying segment locations to enable user selection and playback of desired segments. As such, Herley does not disclose storing information specifying locations of matching program segments, where the information is employed to enable a user to select and play back desired segments of the matching program segments, as recited in claim 7. Therefore, Herley fails to anticipate claim 7. Reconsideration and withdrawal of this rejection are respectfully requested.

Independent claim 15 is rejected under 35 U.S.C. § 102(e) as being anticipated by Herley. Applicants respectfully traverse this rejection to the extent it is maintained over the claim as amended, for similar reasons as stated above regarding the rejection of independent claim 7. Reconsideration and withdrawal of this rejection are respectfully requested.

Rejection of dependent claims

Claims 2, 3, 5, 6, 8-10, 12, 13, 16, and 18 are rejected under 35 U.S.C. § 102(e) as being anticipated by Herley. Claims 14 and 17 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Herley, in view of Ward et al. (U.S. Patent Application Publication No. 20020133499). Claims 2, 3, 5, 6, 8-10, 12-14, and 16-18 each depend from independent claim 1, 7, or 15 and are therefore also patentable for at least the reasons that each of their respective base claims are patentable. Reconsideration and withdrawal of these rejections are respectfully requested.

**CONCLUSION**

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Applicant believes we have appropriately provided for fees due with this response. However, if an additional fee is due, please charge our Deposit Account No. 18-1945, under Order No. 104640-0021-101 from which the undersigned is authorized to draw.

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Respectfully submitted,

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